

EVIDENCE — Defendant may admit prior convictions as part of plea agreement — Revised 3/2010

A defendant may admit his historical prior felony convictions as part of a guilty plea if the trial court follows the provisions of Rule 17, Ariz. R. Crim. P., in taking the plea. Rule 17.1(a)(1) requires that the defendant must appear in open court before a judge for the judge to take the defendant's admission of a prior conviction. Under Rule 17.2, the court must advise the defendant of the consequences of his admission and the rights he waives by admitting. And under Rule 17.3, the court must also find a factual basis for the admission and determine that the admission is made knowingly, voluntarily, and intelligently. *See State v. Medrano-Barraza*, 190 Ariz. 472, 474, 949 P.2d 561, 563 (App. 1997).

Note that if the defendant, as part of a plea agreement, admits to an offense with a prior conviction, the court only needs to advise the defendant of his rights once. In *State v. Barnes*, 167 Ariz. 186, 188, 805 P.2d 1007, 1009 (1991), the Arizona Supreme Court held that Rule 17.6¹ does not require the trial court to separately advise a defendant of the varying ranges in sentence with and without the prior conviction enhancement when, as part of a plea agreement, the defendant pleads guilty to an offense with a prior conviction. The Court reasoned that since the trial court had already advised the defendant of all her rights before taking her guilty plea to the substantive offense, the court did not need to readvise her of the same rights before accepting her admission to the prior conviction. *Id.*

¹ Rule 17.6 states:

Whenever a prior conviction is charged, an admission thereto by the defendant shall be accepted only under the procedures of this rule, unless admitted by the defendant while testifying on the stand.